

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00053-MR**

TERRY ALVIN HYATT,)
Petitioner,) **ORDER**
vs.)
STATE OF NORTH CAROLINA,)
DON GAST, RODNEY G. HASTY,)
TIM SHOOK, ANN BENJAMIN,)
Respondents.)

)

THIS MATTER is before the Court on Petitioner's Motion to Withdraw his *pro se* § 2254 Petition for Writ of Habeas Corpus, filed on March 8, 2021. [Doc 3].

The Petition for Writ of Habeas Corpus was filed on February 18, 2021 and the Government has not been ordered to respond. [Doc. 1]. As such, the Court construes Petitioner's Motion to Withdraw as a Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Under this rule, a petitioner may take a voluntary dismissal without a court order "before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i).

IT IS, THEREFORE, ORDERED that the Clerk shall docket Petitioner's Motion to Withdraw [Doc. 3] as a Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), and close the instant civil action.

IT IS SO ORDERED.

Signed: April 12, 2021



Martin Reidinger
Chief United States District Judge

